

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

SPRINKLER WAREHOUSE, INC.,)	
8535 Jackrabbit Road, Suite A)	Case No.: 1:13-cv-262
Houston, TX 77095,)	
)	Judge:
Plaintiff,)	
)	COMPLAINT FOR COPYRIGHT
v.)	INFRINGEMENT; DEMAND FOR JURY
)	TRIAL
ADVANCED INDUSTRIES, INC.)	
D/B/A ADVANCED IRRIGATION)	
SUPPLY,)	
5353 Majestic Parkway,)	
Bedford Hts., OH 44146,)	
)	
Defendant.)	
)	

For its complaint against ADVANCED INDUSTRIES, INC. D/B/A ADVANCED IRRIGATION SUPPLY ("defendant" or "ADVANCED INDUSTRIES"), Plaintiff SPRINKLER WAREHOUSE, INC. ("plaintiff" or "SPRINKLER WAREHOUSE") states as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under federal law pursuant to 17 U.S.C. § 501, *et seq.*

THE PARTIES

2. SPRINKLER WAREHOUSE is a Texas Corporation with a principal place of business at 8535 Jackrabbit Road, Suite A, Houston, Texas, 77095.

3. On information and belief, defendant ADVANCED INDUSTRIES is an

Ohio corporation with a business address at 5353 Majestic Parkway, Bedford Heights, Ohio, 44146 doing business as Advanced Irrigation Supply.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this lawsuit under 28 U.S.C. § 1338 because the action arises under the copyright laws of the United States, and pendant jurisdiction of any and all state causes of action under 28 U.S.C. § 1367.

5. This Court has personal jurisdiction over defendant because defendant has transacted business and resides in the Northern District of Ohio. Further, on information and belief, the defendant systematically and continuously directs business activities toward and into the Northern District of Ohio through sales, marketing and advertising on its publicly accessible interactive internet website IrrigationAndLighting.com.

6. Venue is proper and reasonable in this district under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to this claim for copyright infringement occurred in this district and defendant has significant, substantial and continuous contacts with the district.

FACTS

7. Plaintiff SPRINKLER WAREHOUSE is in the business of selling irrigation supplies and related accessories. Plaintiff sells such products on the Internet at the webpage SprinklerWarehouse.com.

8. In order to produce content for its website, plaintiff expends considerable sums photographing products, editing and updating content and maintaining its

webpage.

9. The SprinklerWarehouse.com website bears a copyright © notice and most photographic content is clearly marked with either such notice or an explicit statement, such as “This photo is the property of Sprinkler Warehouse.” Such markings provide viewers of such content with notice that they are subject to copyright protection.

10. In addition to explicit copyright marking, the entire content of SprinklerWarehouse.com is the subject of U.S. Copyright Registration Nos. TX 6-879-022, VA 1-679-472, and TX 7-354-083. As such, plaintiff’s website content is entitled to a statutory presumption of valid copyright rights.

11. On information and belief, defendant ADVANCED INDUSTRIES owns, operates, maintains and/or is otherwise responsible for the content found at the website IrrigationAndLighting.com. Through the IrrigationAndLighting.com website ADVANCED INDUSTRIES is also in the business of selling irrigation supplies and related accessories.

12. The IrrigationAndLighting.com website is a publicly accessible interactive website that advertises to visitors and allows visitors to make purchases and track orders.

13. ADVANCED INDUSTRIES’ IrrigationAndLighting.com website and plaintiff’s SprinklerWarehouse.com sell many of the same irrigation supply products with many of the same manufacturers. Due to the similarity of products sold by plaintiff’s and defendant’s website, the parties compete directly for many of the same consumers.

14. Subsequent to the registration date of plaintiff's copyrighted website, ADVANCED INDUSTRIES began copying photos from SprinklerWarehouse.com and republishing said photos on IrrigationAndLighting.com. The copied photos contained images of products sold on both parties' respective websites.

15. On information and belief, ADVANCED INDUSTRIES removed copyright markings from plaintiff's photos for the purpose of concealing the photo's author, owner and source. Because ADVANCED INDUSTRIES was aware of such markings, he had actual as well as constructive notice of plaintiff's copyright rights.

16. Attached hereto as **Exhibit A** are respective examples of plaintiff's webpages and defendant's infringement of plaintiff's copyrighted photo on its webpage.

17. As of the date of this complaint, such images still are posted on defendant's website. Attached hereto as **Exhibit B** is a list of webpage URLs where plaintiff's copyright images are still being displayed without authorization, despite plaintiff's rights.

18. ADVANCED INDUSTRIES' copying and republication without authorization was thus willful, oppressive malicious and with wrongful intent to infringe the rights of plaintiff.

CLAIMS FOR RELIEF
First Claim for Relief
(Copyright Infringement)

19. Plaintiff re-alleges and incorporates by reference all of the preceding and following paragraphs.

20. At all times relevant hereto, plaintiff has been the owner of all copyright rights or rights to assert copyright claims for the website content of SprinklerWarehouse.com and all derivative works. Plaintiff further holds copyright registration certificates from the United States Copyright Office for the content.

21. Without authorization, defendant used, copied, reproduced, and republished the copyrighted material. Defendant's copying, reproduction, and republication were commercial in character and purpose. Defendant's either completely or substantially used plaintiff's copyrighted content. Because the copying was for the purpose of competing with plaintiff it did not constitute fair use under any doctrine of copyright law.

22. Plaintiff did not authorize defendant's copying, displaying, or republishing of the works. Defendant infringed the copyrights of plaintiff's creative works by reproducing, republishing, publicly displaying, and creating derivatives of the works.

23. As a result of defendant's infringement, plaintiff has suffered, and will continue to suffer, substantial losses.

24. Defendant knew the infringed works belonged to plaintiff and that they did not have authorization to exploit plaintiff's works. Defendant's infringements were therefore willful.

25. On information and belief, defendant induced, caused and materially contributed to the infringing acts of others by encouraging, inducing, allowing, and assisting others to reproduce and republish plaintiff's works. Further, on information

and belief, defendant had knowledge of the infringing acts of others relating to plaintiff's copyrighted works.

26. On information and belief, defendant has the right and ability to control the infringing acts of the individuals and entities that directly infringed plaintiff's works. Further, on information and belief, defendant obtained a direct financial benefit from the infringing activities of the individuals or entities that directly infringed plaintiff's works.

27. Defendant's actions, as set forth above, constitute copyright infringement in violation of the Copyright Act, 17 U.S.C. § 501, *et seq.*, all to the damage of plaintiff as previously alleged.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court grant judgment against defendant for the following:

A. Defendant, its officers, agents, servants, employees, and attorneys, and all persons in active concert or participation with any of them, be temporarily restrained, and preliminarily and permanently enjoined from:

- i. infringing plaintiff's copyrighted works;
- ii. competing unfairly with plaintiff in any manner, including infringing any of plaintiff's copyright rights; and
- iii. conspiring, encouraging, inducing, allowing, abetting, or assisting others in performing any of the activities referred to in subparagraphs (i) - (ii) above.

B. Defendant, its officers, agents, servants, employees, and attorneys, and all persons in active concert or participation with any of them, deliver for destruction, or show proof of destruction of, any and all products, labels, signs, prints, packages, wrappers, receptacles, and advertisements, and any other materials in their possession or control that depict or reference any of plaintiff's copyrighted materials any materials or articles used for making or reproducing the same.

C. Defendant file with the Court and serve on plaintiff, within 30 days after the entry and service on defendant of an injunction, a report in writing and attested to under penalty of perjury setting forth in detail the manner and form in which defendant have complied with the provisions of subparagraphs (A) and (B) above.

D. Plaintiff recover all damages it has sustained as a result of defendant's copyright infringement.

E. An accounting be directed to determine defendant's profits resulting from their infringement and unfair competition and that the profits be paid over to plaintiff, increased as the Court determines is appropriate to the circumstances of this case.

F. Plaintiff be awarded statutory damages.

G. Plaintiff be awarded its reasonable attorneys' fees for prosecuting this action.

H. Plaintiff recover its costs of this action and pre-judgment and post-

judgment interest, to the full extent allowed by law.

- I. Plaintiff receives all other relief the Court deems appropriate.

Respectfully submitted,

/s/ Samir B. Dahman

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JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues triable.

/s/ Samir B. Dahman

EXHIBIT A



This photo is the property of **SprinklerWarehouse**

Sprinkler warehouse's copyrighted image



Defendant's infringing image

EXHIBIT B

<http://www.IrrigationAndLighting.com/febco-1-12-febco-double-check-assembly/>
<http://www.IrrigationAndLighting.com/febco-1-12-reduced-pressure-assembly/>
<http://www.IrrigationAndLighting.com/febco-1-12-pvb-assembly/>
<http://www.IrrigationAndLighting.com/febco-1-14-pvb-assembly/>
<http://www.IrrigationAndLighting.com/febco-1-double-check-assembly/>
<http://www.IrrigationAndLighting.com/febco-1-pvb-assembly/>
<http://www.IrrigationAndLighting.com/febco-1-reduced-pressure-assembly/>
<http://www.IrrigationAndLighting.com/febco-2-double-check-assembly/>
<http://www.IrrigationAndLighting.com/febco-2-pvb-assembly/>
<http://www.IrrigationAndLighting.com/febco-34-double-check-assembly/>
<http://www.IrrigationAndLighting.com/febco-34-reduced-pressure-assembly/>
<http://www.IrrigationAndLighting.com/hunter-connection-kit-with-25-shielded-cable/>
<http://www.IrrigationAndLighting.com/hunter-hand-held-transmitter-only/>
<http://www.IrrigationAndLighting.com/hunter-handheld-remote-control-system/>
<http://www.IrrigationAndLighting.com/hunter-handheld-remote-control-system-receiver-only/>
<http://www.IrrigationAndLighting.com/hunter-icc-series-4-station-expansion-module/>
<http://www.IrrigationAndLighting.com/hunter-icc-series-8-station-controller-plastic-cab/>
<http://www.IrrigationAndLighting.com/hunter-icc-series-8-station-controller-stainless-s/>
<http://www.IrrigationAndLighting.com/hunter-icr-kit-hunter-remote-control-system/>
<http://www.IrrigationAndLighting.com/hunter-receiver-unit-only/>
<http://www.IrrigationAndLighting.com/hunter-remote-control-system/>
<http://www.IrrigationAndLighting.com/hunter-replacement-transmitter/>
<http://www.IrrigationAndLighting.com/hunter-xc-series-4-station-controller-outdoor/>
<http://www.IrrigationAndLighting.com/hunter-xc-series-6-station-controller-indoor/>
<http://www.IrrigationAndLighting.com/irritrol-kwikstart-remote-control-system-for-kwikdia/>
<http://www.IrrigationAndLighting.com/irritrol-kwikstart-remote-control-system-for-rain-dial/>
<http://www.IrrigationAndLighting.com/weathermatic-remote-control/>